

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

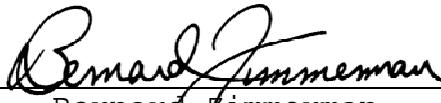
11 DEBORAH WILSON,)
12 Plaintiff(s),) No. C07-3431 BZ
13 v.) Related Cases: C07-5642 BZ
14 COMPASS VISION INC., et al.,) C08-4118 BZ
15) C09-2016 BZ
16 Defendant(s).)
17 _____)
18 COMPASS VISION, INC.,) ORDER GRANTING MOTION FOR
19 Cross-Complainant,) MORE DEFINITE STATEMENT
20 v.)
21 MAXIMUS, INC.,)
22 Cross-Defendant.)
22 _____)

23 Before the Court is cross-defendant Maximus, Inc.'s
24 motion to dismiss Compass Vision, Inc.'s cross-complaint, or
25 in the alternative, for a more definite statement. The cross-
26 complaint pleads four related claims, all to the effect that
27 Maximus has failed to defend or to agree to indemnify Compass
28 Vision from plaintiff's complaint. The duty to indemnify

1 arises, the cross-complaint alleges, by reason of the
2 negligence or willful misconduct of Maximus, its employees or
3 agents. However, as Maximus correctly points out, the cross-
4 complaint pleads no facts from which a court could conclude
5 that Maximus acted negligently or committed willful
6 misconduct. As the Supreme Court recently explained in
7 Ashcroft v. Iqbal ____ U.S. ____ , 129 Sup. Ct. 1937, (2009),
8 conclusory recitations of the legal elements of a claim
9 without factual support are no longer adequate to state a
10 claim. None of the cases Compass Vision cites were decided
11 after Iqbal, which has generally been interpreted as having
12 tightened federal pleading standards. Moss v. U.S. Secret
13 Service, __ F.3d __, 2009 WL 2052985 at *5-6 (9th Cir.)

14 Under the circumstances, the Court finds no need for
15 further briefing or argument and vacates the hearing presently
16 set for September 23, 2009. **IT IS HEREBY ORDERED** that the
17 motion of Maximus for a more definite statement is **GRANTED** and
18 that the motion to dismiss is **DENIED** without prejudice to
19 being renewed after the amended cross-complaint is filed. See
20 Moss, supra, at *1. Compass Vision shall file an amended
21 cross-complaint by **August 26, 2009**.

22 Dated: August 5, 2009

23 
24 Bernard Zimmerman
United States Magistrate Judge

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